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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/554,992	05/23/2000	Volker Schellenberger	GC500-2-US	9016

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GENENCOR INTERNATIONAL, INC.
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EXAMINER

GITOMER, RALPH J

ART UNIT	PAPER NUMBER
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1651

DATE MAILED: 03/05/2003

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Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.
09/554,992

Applicant(s)
Schellenberger et al.

Examiner
Ralph Gitomer

Art Unit
1651



-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on Oct 9, 2002
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-26 is/are pending in the application.
- 4a) Of the above, claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-26 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claims _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

*See the attached detailed Office action for a list of the certified copies not received.

- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s). 5 6) ☐ Other:

The amendment received 10/9/2002 and the IDS's received
6/17/02 and 6/21/02 have been entered, claims 1-26 are currently
pending in this application. This Office Action is made nonfinal
because of the new rejections following.

The following is a quotation of the appropriate paragraphs
of 35 U.S.C. 102 that form the basis for the rejections under
this section made in this Office action:

A person shall be entitled to a patent unless -

7-08

(a) the invention was known or used by others in this country, or
patented or described in a printed publication in this or a foreign
country, before the invention thereof by the applicant for a patent.

Claims 1-20, 23, 26 are rejected under 35 U.S.C. 102(a) as
being anticipated by Okkels.

Okkels (WO 97/07202) entitled ~~✕~~Lipolytic Enzymes~~✕~~ teaches on
page 159, stained swatches heated in an oven and then different
detergent compositions containing enzymes tested on the stained
swatches in different concentrations.

Each of the features of the claims are taught by Okkels for
the same function as claimed.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

5 (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be
10 negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various
15 claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the
20 examiner to consider the applicability of 35 U.S.C. 103[©] and potential 35 U.S.C. 102(f) or (g) prior art under 35 U.S.C. 103(a).

25 Claims 21-22, 24-25 are rejected under 35 U.S.C. 103(a) as being unpatentable over the combination of Okkels in view of Withershaw.

Okkels (WO 97/07202) entitled ~~XX~~Lipolytic Enzymes~~XX~~ teaches on page 159, stained swatches heated in an oven and then different detergent compositions containing enzymes tested on the stained swatches in different concentrations. On page 160 change in reflectance was determined before and after washing.

Claims 21-22 differ from Okkels in that they specify the stain is a BMI (blood milk ink) stain. Claims 24-25 recite the stain is measured by absorbance or fluorescence.

Withershaw (5,800,755) entitled ~~XX~~Agglomerated Active With Controlled Release~~XX~~ teaches in column 11 first paragraph, fixing a stain of blood, milk, and carbon black on cloth prior to determining bleach performance. Stain removal was measured by determining reflectance.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to employ a BMI stain as taught by Withershaw in the method of Okkels because Okkels teaches a stain standard and to select another known stain standard with the expected results would have been obvious. Note that carbon black is the pigment used in India ink.

Regarding how the change in stain is determined, both of the above references teach determining reflectance and to determine absorbance or fluorescence rather than reflectance is not novel in this art because all are well known types of determinations of the quantity of a substance present. No unexpected results are seen in selecting any known method of

determining the quantity of stain before and after enzyme treatment.

Claims 15-26 are rejected under 35 U.S.C. 112, first paragraph, as containing subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention.

The claims are directed to determining the catalytic efficiency of an enzyme but no such determination of any sort is found in the specification as originally filed. Note that most enzyme efficiency determinations require controlling for a number of variables including pH, temperature, inhibiting factors, cofactors and others.

Claims 1-26 are rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Each of the following applies in all occurrences.

Claim 1 is directed to an assay but lacks any assay. The steps of claim 1 would not determine a wash performance. Standard method steps may include contacting, determining and correlating. Claim 2 is confusing as to what swatch is smaller than what. In claim 6 ~~the~~ a detergent ingredient~~s~~ is unclear as to

what it is an ingredient of. In claim 7 ~~during incubation~~
lacks definite antecedent basis. In claim 8(e) ~~the degree~~
lacks antecedent basis. Note in claim 8 the last step is
inconsistent with the preamble of the claim. Claim 15 cannot be
5 understood at all. In step (e) what is removed from what is not
seen, step (f) is directed to measuring the catalytic efficiency
of the enzyme which is somewhat correlated to the preamble but
there are not steps provided to do so. In claim 21 there is no
antecedent basis for ~~the constituent is ink~~. And BMI should be
10 spelled out in the first occurrence in the claims.

The title of the invention is not aptly descriptive. A new
title is required that is clearly indicative of the invention to
which the claims are directed.

15 This application does not contain an abstract of the
disclosure as required by 37 CFR 1.72(b). An abstract on a
separate sheet is required.

20 The following prior art pertinent to applicant's disclosure
is made of record and not relied upon:

Davis (6,379,942) teaches enzymes.

Markvardsen (6,194,183) teaches determining detergent enzyme
activity.

Serial No. 09/554,992
Art Unit 1651

-7-

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ralph Gitomer whose telephone number is (703) 308-0732. The examiner can normally be reached on Tuesday-Friday from 8:00 am - 5:00 pm.

5 The examiner can also be reached on alternate Mondays. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Wityshyn can be reached on (703) 308-4743. The fax phone number for this Art Unit is (703) 308-4556. Any inquiry of a general nature or relating to the status

10 of this application should be directed to the Group receptionist whose telephone number is (703) 308-1235. For 24 hour access to patent application information 7 days per week, or for filing applications electronically, please visit our website at www.uspto.gov and click on the button Patent Electronic Business

15 Center for more information.

Ralph Gitomer

Ralph Gitomer
Primary Examiner
Group 1651

RALPH GITOMER
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